

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 95-1354-CIV-GOLD

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U.S. DISTRICT COURT

UNITED STATES OF AMERICA)	FILED <u>IN CAMERA</u> AND UNDER
<u>ex rel.</u>)	SEAL PURSUANT TO
)	31 U.S.C. § 3730
VEN-A-CARE OF THE)	
FLORIDA KEYS, INC.)	
a Florida Corporation,)	
by and through its principal)	
officers and directors,)	
ZACHARY T. BENTLEY and)	
T. MARK JONES,)	
Plaintiff,)	
vs.)	
ABBOTT LABORATORIES, INC.,)	
Defendant.)	

**THE GOVERNMENT'S NOTICE OF ELECTION TO INTERVENE
IN PART AND TO DECLINE TO INTERVENE IN PART**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States notifies the Court of its decision to intervene in part of *United States ex rel. Ven-A-Care v. Abbott, et al.*, Civil Action No. 95-1354-CIV-GOLD (the action), and to decline to intervene in part of the action. The United States intervenes in that part of the action which alleges Medicaid and Medicare fraud with respect to Abbott Laboratories, Inc. (Abbott) for the following drugs and Healthcare Common Procedural Coding System (HCPCS) billing codes:

DRUG	NDC#
Sodium Chloride Injection	00074196607
Water for Injection 30 ml	00074397703
Vancomycin HCl 500 mg	00074433201
Water for Injection 10 ml	00074488710

Water for Injection 20 ml	00074488720
Sterile Water for Injection	00074488750
Sodium Chloride Injection	00074488810
Sodium Chloride Injection	00074488820
Sodium Chloride Irrigation	00074613802
Sodium Chloride Irrigation	00074613803
Sodium Chloride Irrigation	00074613822
Sterile Water for Irrigation	00074613902
Sterile Water for Irrigation	00074613903
Sterile Water for Irrigation	00074613922
Vancomycin HCl 5 gm	00074650901
Vancomycin HCl 1 gm	00074653301
Vancomycin HCL 500 mg Add-Vantage	00074653401
Vancomycin HCl 1 gm Add-Vantage	00074653501
5% Dextrose in Water 50 ml	00074710013
5% Dextrose in Water 100 ml	00074710023
Sodium Chloride Injection	00074710102
Sodium Chloride 0.9% 50ml	00074710113
Sodium Chloride 0.9% 100 ml	00074710123
Dextrose Injection	00074712007
Sodium Chloride Irrigation	00074713809
Sterile Water for Irrigation	00074713909
Dextrose 5%/ Kcl/NaCl 1000 ml	00074790209
Dextrose Injection	00074792202
5% Dextrose in Water 500 ml	00074792203
5% Dextrose in Water1000 ml	00074792209
Dextrose Injection	00074792323
Dextrose Injection	00074792336
Dextrose Injection	00074792337
Dextrose 5% and 0.225% NaCL Injection	00074792409
Dextrose 5% and 0.225% NaCL Injection	00074792609
5% Dextrose/ NaCl 0.9% 1000 ml	00074794109
Sodium Chloride Irrigation	00074797205
Sterile Water for Irrigation	00074797305
Sodium Chloride 0.9% 250 ml	00074798302
Sodium Chloride 0.9% 500 ml	00074798303
Sodium Chloride 0.9% 1000 ml	00074798309

HCPCS

J2912

J3370

Description

Sodium Chloride, .9 percent, per 2 ml

Vancomycin HCl, 500 mg

J7030	Normal Saline Solution, 1000 cc
J7040	Normal Saline Solution, 500 ml
J7042	5 percent Dextrose/Normal Saline Solution, 500 ml
J7050	Normal Saline Solution, 250 cc
J7051	Sterile Saline or Water, up to 250 cc
J7060	5 percent Dextrose/Water, 500 ml
J7070	D-5-W, 1000 cc
J7110	Dextran 75, 1000 ml
J7130	Hypertonic Saline Solution, 50 or 100 mEq, 20 cc vial

The United States declines to intervene in that part of the action against Abbott as to all other drugs or HCPCS codes identified in this action. The United States is filing its complaint against Abbott along with this intervention notice.

Although the United States declines to intervene in a portion of the action against Abbott, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the declined portion of the action against Abbott in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id. Therefore, the United States requests that, should either the relator or the defendant propose that the part of the action against Abbott in which the United States has not intervened be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action, even as to the non-intervened part of this action against Abbott, be served upon the United States; the United States also requests that all orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition